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Paper No. 24

**FITZPATRICK CELLA HARPER & SCINTO  
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NEW YORK, NY 10112**

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In re Application of  
Koromo Shirota et al  
Application No. 09/677,867  
Filed: October 3, 2000  
Attorney Docket No. 684.3087

OFFICE OF PETITIONS  
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 24, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed November 5, 2002, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 6, 2003.

The above-identified application became abandoned for failure to timely pay the issue fee. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. See MPEP 711.03(c)(III)(A)(1). Therefore, the filing of a continuing application is not a proper reply under 37 CFR 1.137(a)(1) or (b)(1). In view of the authorization contained in the petition to change any additional fees due, the \$1,330.00 issue fee will be charged to Deposit Account No. 06-1205.

**Petitioner is advised that the issue fee paid on September 7, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.<sup>1</sup>**

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<sup>1</sup> The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

The above-identified application is being revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

The application file is being forwarded to Technology Center AU 2861 for processing of the request for continued examination (RCE) under 37 CFR 1.114..

Handwritten signature of Wan Laymon in black ink.

Wan Laymon

Petitions Examiner

Office of Petitions

Office of the Deputy Commissioner  
for Patent Examination Policy